

BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of Wisconsin Power and Light Company and Wisconsin Electric Power Company for a Certificate of Authority to Install a Selective Catalytic Reduction System for Nitrogen Oxide Removal on Unit 5 at the Edgewater Generating Station, Sheboygan County, Wisconsin

5-CE-137

**SECOND PREHEARING CONFERENCE MEMORANDUM**

On August 13, 2009, the Commission held a prehearing to (1) determine the date and time for a hearing and (2) specify dates for filing testimony and exhibits.

Pursuant to the prehearing conference discussion and Wis. Admin. Code § PSC 2.04, the following matters with respect to regulating the course of the hearing are ordered. Parties may submit comment on any matter covered in Item 2 not previously ordered in PSC REF #: 108881 by filing such comment no later than 3 days after issuance of this order:

1. Initial testimony and exhibit numbering assignment, filing deadlines, and hearing schedule are as follows:

	<b>Filers</b>	<b>Direct</b>	<b>Direct</b>	<b>Rebuttal</b>	<b>Sur-Rebuttal</b>	<b>Exhibits</b>	<b>Hearing</b>
	<b>WPL</b>	D1.1-D1.x		R1.1-R1.x	SR1.1-SR1.x	1.1-1.x	
	<b>WEPCO</b>	D2.1-D2.x		R2.1-R2.x	SR2.1-SR2.x	2.1-2.x	
	<b>CUB/CW</b>		D3.1-D3.x	R3.1-R3.x	SR3.1-SR3.x	3.1-3.x	
	<b>Sierra Club</b>		D4.1-D4.x	R4.1-R4.x	SR4.1-SR4.x	4.1-4.x	
	<b>WPPI</b>		D.1-D5.x	R5.1-R5.x	SR5.1-SR5.x	5.1-5.x	
	<b>Commission staff</b>		D6.1-D6.x	R6.1-R6.x	SR6.1-SR6.x	6.1-6.x	
<b>Deadlines and dates</b>		10/20/09 12:00 p.m.	12/08/09 12:00 p.m.	12/22/09 12:00 p.m.	01/12/10 12:00 p.m.	Same deadline as corresponding testimony	01/19/10 9:00 a.m. PSC Bldg

2. Other facilitating matters:

- a. Parties and Commission staff shall:

- i. File by Electronic Regulatory Filing system (ERF).

- ii. Serve each other by email or, if prohibited by file size, a standard optical disc storage media.
  - iii. Indicate at the start of the hearing the necessity of a closed session for purposes of planned cross-examination with respect to a record filed under request for confidential handling.
- b. Prior to filing, parties and Commission staff shall:
  - i. Center the page number on the bottom of each page of testimony and mark the first page of an exhibit in the top right-hand corner of each exhibit. Allow space on the first page of each filing for the Commission's time stamp.
  - ii. Refer to each exhibit in testimony by using the pre-assigned exhibit number.
  - iii. Paginate any testimony and mark any exhibit filed publicly for which another version is filed under request for confidential handling with the pre-assigned number succeeded by the letter "p".
  - iv. Paginate any testimony and mark any exhibit filed under request for confidential handling with the pre-assigned number succeeded by the letter "c".
- c. Parties and Commission staff shall file and serve:
  - i. Every correction to pre-filed testimony and exhibits in the form of an errata sheet or replacement page no later than January 15, 2009, at 12:00 p.m. Indicate on the errata the location of each correction by page and line number or exhibit number. Paginate any replacement page and mark any replacement exhibit with the same page or exhibit number as the original version, except the letter "r" shall immediately succeed the number.
  - ii. The affidavit of any witness attesting to the truthfulness and accuracy of that witness's documentary evidence offered into the record in the absence of a live oath or affirmation no later than 3 days after the last day of hearing.
  - iii. Documentary evidence not pre-filed but offered into the record at the hearing no later than 3 days after the last day of hearing. At the hearing an opportunity to review and object shall occur prior to the receipt of any such evidence into the record. Any such evidence for which the filer requests confidential handling treatment under Wis. Admin. Code § PSC 2.12 applies in the same manner as applied to pre-filed documents.

- iv. Documentary evidence not pre-filed but indentified at the hearing for which offer into the record is delayed until after the hearing (delayed exhibit) no later than the deadline set at the hearing. Any such evidence for which the filer requests confidential handling treatment under Wis. Admin. Code § PSC 2.12 applies in the same manner as applied to pre-filed documents.
- v. Every transcript correction no later than 5 days after issuance from the Office of Administrative Law Judge of the public transcript by email and any confidential transcript by mail.
- vi. Any reply to a request for rehearing or reopening within 5 days of the filing of the request. *See* Wis. Stat. §§ 196.39(2) and 227.49(5). The Commission shall accept no response from the requester.
- vii. Any response to a motion to compel a discovery response, motion for protective order, a request for intervention, or an objection to the receipt of evidence offered by a member of the public or a delayed exhibit, within 3 days of filing the motion, request, or objection. File any reply within 3 days of filing of the response.
- viii. Every objection to:
  - 1. Pre-filed direct testimony, rebuttal testimony and corresponding exhibits by the deadline of the next round of filing.
  - 2. Pre-filed sur-rebuttal testimony, and corresponding exhibits by January 15, 2009, at 12:00 p.m.
  - 3. Any evidence offered by a member of the public no later than 3 days after the last day of hearing. Without timely objection the Office of the Administrative Law Judge shall receive this evidence into the record without further order.
  - 4. Any delayed exhibit no later than 3 days after the deadline to file set at the hearing. Without timely objection, the Office of the Administrative Law Judge shall receive such evidence into the record without further order.
- d. Filing constitutes certification of service. *See* Wis. Admin. Code § PSC 2.06(3)(a)2.
- e. Wis. Admin. Code § PSC 2.12(1)-(6) applies to any transcript volume that contains testimony taken *in camera* for which no determination under Wis. Admin. Code § PSC 2.12(7) occurred. The person requesting confidential handling treatment shall file and serve a request under Wis. Admin. Code § PSC 2.12(3) and a partially unredacted copy of the volume, if applicable, under Wis.

DOCKET 5-CE-137

Admin. Code § PSC 2.12(3) no later than 5 days after issuance of the volume by mail from the Office of Administrative Law Judge.

- f. The Commission shall afford to any transcript volume that contains testimony taken *in camera* and granted the same document handling and retention process and procedure that applies to documents granted confidential handling treatment under Wis. Admin. Code § PSC 2.12.
- g. Initial briefs of a party shall not exceed 20,000 words. Reply briefs shall not exceed 10,000 words. Non-party briefs shall not exceed 5,000 words.
- h. The Office of Administrative Law Judge shall issue every written order to parties and Commission staff by email.
- i. In computing any period of time that follows service by a party or Commission staff or follows an issue of the Office of Administrative Law Judge, the day of emailing is the day from which the designated period of time begins to run. *See* Wis. Admin. Code § PSC 2.05(2).

August 18, 2009



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Michael E. Newmark  
Administrative Law Judge

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